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**FILED**

APR 15 2011

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**E-filing**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO/OAKLAND DIVISION

**LB**

DEBRA R. ROBINSON,

Plaintiff,

v.

HUNT & HENRIQUES,  
WALTER S. CHRISTENSEN,  
and DOES 1 through 30, inclusive,

Defendants.

**CV 11** CASE NO. **1867**  
**COMPLAINT**  
**DEMAND FOR JURY TRIAL**

COMES NOW the Plaintiff, DEBRA R. ROBINSON by counsel, and for her complaint  
against the Defendants, alleges as follows:

**JURISDICTION**

1. The jurisdiction of this Court is conferred by 15 U.S.C. §1692k(d), 28 U.S.C. §1367,  
and the doctrine of pendant jurisdiction.

**INTRADISTRICT ASSIGNMENT**

2. Venue lies in the San Francisco/Oakland Division of the United States District Court  
for the Northern District of California, as a substantial part of the events or omissions which



1 give rise to Plaintiff's claims occurred in the County of Lake, California.

2 **PRELIMINARY STATEMENT**

3 3. This is an action for actual, statutory and punitive damages, costs and attorney's fees  
4 brought pursuant to 15 U.S.C. §1692 *et seq.* (the federal Fair Debt Collection Practices Act,  
5 hereafter "FDCPA"), and California Civil Code §1788 *et seq.*, (California's Rosenthal Fair Debt  
6 Collection Practices Act, hereafter "CFDCPA").  
7

8 4. Plaintiff is a natural person and resident of the State of California, County of Lake.  
9 She is a "consumer" as defined by 15 U.S.C. §1692a(3) and a "debtor" as defined by Cal. Civ.  
10 Code §1788.2(h).  
11

12 5. Upon information and belief, HUNT & HENRIQUES ("H & H") is a collection law  
13 firm of unknown business formation authorized to do business, and doing business, in the State  
14 of California and the County of Lake.

15 6. Upon information and belief, H & H uses instrumentalities of interstate commerce or  
16 the mails in a business the principal purpose of which is the collection of debts; and/or regularly  
17 collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or  
18 due another, making it a "debt collector" under 15 U.S.C. §1692a(6).  
19

20 7. Upon information and belief, H & H, in the ordinary course of business, regularly, on  
21 behalf of itself or others, engages in debt collection, making it a "debt collector" under Cal.  
22 Civ. Code §1788.2(c).  
23

24 8. Upon information and belief, defendant WALTER S. CHRISTENSEN  
25 ("CHRISTENSEN") is natural person employed as a process server doing business in the State  
26 of California and the County of Lake.

27 9. Upon information and belief, CHRISTENSEN, in the ordinary course of business,  
28



1 regularly, on behalf of himself or others, engages in debt collection, making him a "debt  
2 collector" under Cal. Civ. Code §1788.2(c).

3 10. Plaintiff does not know the true names and capacities, whether corporate,  
4 partnership, associate, individual or otherwise of defendants sued herein as DOES 1 through 30,  
5 inclusive. Plaintiff is informed and believes, and on that basis alleges, that defendants Does 1  
6 through 30, inclusive, are in some manner responsible for the acts, occurrences and transactions  
7 set forth herein, and are legally liable to plaintiff. Plaintiff will seek leave to amend this  
8 complaint to set forth the true names and capacities of said fictitiously-named defendants,  
9 together with appropriate charging allegations, when ascertained.  
10

11 11. Plaintiff is informed and believes, and on that basis alleges, that at all times  
12 mentioned herein each defendant, whether actually or fictitiously named herein, was the  
13 principal, agent (actual or ostensible), or employee of each other defendant, and in acting as  
14 such principal or within the course and scope of such employment or agency, took some part in  
15 the acts and omissions hereinafter set forth, by reason of which each defendant is liable to  
16 plaintiff for the relief prayed for herein.  
17

### 18 FACTS

19 12. In or about March, 2010, defendant debt-collection lawfirm H & H began calling  
20 plaintiff in an attempt to collect a debt allegedly owed by plaintiff to Capital One Bank (USA),  
21 N.A. Plaintiff sent H & H a letter requesting that it cease communication with her, which H &  
22 H received on or about April 19, 2010.  
23

24 13. Although H & H received plaintiff's "cease communication" letter on or about April  
25 19, 2010, H & H telephoned plaintiff and dunned her for payment of the alleged debt, after it  
26 had received the letter, in violation of the FDCPA and CFDCPA.  
27  
28



1  
2 14. On or about July 1, 2010, Capital One Bank (USA), N.A. filed suit (the "Lake  
3 County Collection Action") against plaintiff to collect the debt allegedly owed. The case was  
4 captioned *Capital One Bank (USA), N.A. v. Debra R. Robinson*, Lake County Superior Court  
5 Case No. CV 408896. The complaint alleged breach of contract and Common Counts, and  
6 prayed for \$7,255.15 plus interest, attorney fees, and costs.  
7

8 15. On information and belief, H & H hired defendant CHRISTENSEN to serve the  
9 Lake County Collection Action summons and complaint on plaintiff. CHRISTENSEN acted as  
10 H & H's agent or employee in serving the Lake County Collection Action on plaintiff.  
11

12 16. While attempting to serve plaintiff, CHRISTENSEN found the gate to her property  
13 locked while plaintiff was at work. CHRISTENSEN telephoned plaintiff and left her a  
14 voicemail threatening that if she did not come open her gate, he would report to law  
15 enforcement that plaintiff had a marijuana garden, which was false.  
16

17 17. After several failed attempts to access the property, CHRISTENSEN finally was  
18 able to get through the gate and onto plaintiff's property. CHRISTENSEN served the summons  
19 and complaint on her neighbor, who did not live at plaintiff's residence address.  
20

21 18. After serving plaintiff's neighbor, CHRISTENSEN filed with the court a  
22 "Declaration of Reasonable Diligence," regarding his service of the complaint and summons, in  
23 which he stated: "8/11/2010 7:05 PM: No Access to subject's door, locked gate. Marijuana  
24 garden clearly visible behind the house."  
25

26 19. CHRISTENSEN's threat to report to law enforcement that plaintiff had a marijuana  
27 garden, and his publication that there was a marijuana garden on her property defamed plaintiff,  
28 and caused her emotional distress and embarrassment. CHRISTENSEN's publication that a





1 marijuana garden was clearly visible "behind the house" is reasonably construed to mean that  
2 there was a marijuana garden behind *plaintiff's* house, and that the marijuana belonged to her,  
3 which was false.

4  
5 20. Plaintiff works for a public school that has a "no-drugs" policy. She has also  
6 applied for work as a civilian employee of the United States military, which also has a "no-  
7 drugs" policy. Plaintiff was especially upset that CHRISTENSEN published that she had a  
8 marijuana garden "behind the house," because she is afraid that this could interfere with her  
9 employment.

10  
11 21. Plaintiff has sustained actual damages, including emotional distress, as a result of  
12 defendants' acts and omissions.

13 **FIRST CLAIM FOR RELIEF**

14 (Violation of 15 U.S.C. §1692c and Cal. Civil Code §1788.17)

15 (H & H only)

16  
17 22. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 21 as  
18 though fully set forth.

19  
20 23. Defendant H & H willfully and knowingly violated 15 U.S.C. §1692c, and therefore  
21 also Cal. Civil Code §1788.17, by telephoning plaintiff and dunning her for payment, after it  
22 had received a letter from plaintiff requesting that it cease communication with her.

23  
24 24. Defendants H & H's acts as herein alleged have caused plaintiff to suffer emotional  
25 distress, embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages,  
26 statutory damages, and attorney's fees and costs, as authorized under 15 U.S.C. §1692k and Cal.  
27 Civil Code § 1788.30.

28 WHEREFORE, plaintiff prays judgment against defendants as hereinafter set forth.

//



**SECOND CLAIM FOR RELIEF**

(Violation of 15 U.S.C. §1692d and Cal. Civil Code §1788.17)  
(H & H and CHRISTENSEN)

25. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 24 as though fully set forth.

26. Defendants willfully and knowingly violated 15 U.S.C. §1692d, and therefore also Civil Code §1788.17, by engaging in conduct the natural consequence or which is to harass, oppress, or abuse any person in connection with the collection of a debt, when CHRISTENSEN, acting as H & H's agent or employee, threatened that he would report to law enforcement that plaintiff had a marijuana garden if she did not come out and open her locked gate, and also filed a "Declaration of Reasonable Diligence" in which he stated that there was a "...marijuana garden clearly visible behind the house."

27. Defendants' acts as herein alleged have caused plaintiff to suffer emotional distress, embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages, statutory damages, and attorney's fees and costs, as authorized under 15 U.S.C. §1692k and Cal. Civil Code § 1788.30.

WHEREFORE, plaintiff prays judgment against defendants as hereinafter set forth.

**THIRD CLAIM FOR RELIEF**

(Violation of 15 U.S.C. §1692e and Cal. Civil Code §1788.17)  
(H & H and CHRISTENSEN)

28. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 27 as though fully set forth.

29. Defendants willfully and knowingly violated 15 U.S.C. §§1692e, and therefore also Civil Code §1788.17, by using false, deceptive, or misleading representations or means in



1 attempting to collect a debt, when CHRISTENSEN, acting as H & H's agent or employee, filed  
2 a "Declaration of Reasonable Diligence" in which he falsely stated that there was a  
3 "...marijuana garden clearly visible behind *the* house" (emphasis added), implying that there  
4 was a marijuana garden behind plaintiff's house, when there was not.  
5

6 30. Defendants' acts as herein alleged have caused plaintiff to suffer emotional distress,  
7 embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages, statutory  
8 damages, and attorney's fees and costs, as authorized under 15 U.S.C. §1692k and Cal. Civil  
9 Code § 1788.30.  
10

11 WHEREFORE, plaintiff prays judgment against defendants as hereinafter set forth.

12 **FOURTH CLAIM FOR RELIEF**

13 (Violation of 15 U.S.C. §1692e(4) and Cal. Civil Code §1788.17)  
14 (H & H and CHRISTENSEN)

15 31. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 30 as  
16 though fully set forth.

17 32. Defendants willfully and knowingly violated 15 U.S.C. §§1692e(4), and therefore  
18 also Civil Code §1788.17, by representing or implying that nonpayment of the alleged debt  
19 would result in the arrest or imprisonment when such action was unlawful and/or defendants  
20 had no intention to take such action, when CHRISTENSEN, acting as H & H's agent or  
21 employee, threatened that he would report to law enforcement that plaintiff had a marijuana  
22 garden if she did not come out and open her locked gate.

23 33. Defendants' acts as herein alleged have caused plaintiff to suffer emotional distress,  
24 embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages, statutory  
25 damages, and attorney's fees and costs, as authorized under 15 U.S.C. §1692k and Cal. Civil  
26 Code § 1788.30.  
27  
28



1 WHEREFORE, plaintiff prays judgment against defendants as hereinafter set forth.

2 **FIFTH CLAIM FOR RELIEF**

3 (Violation of 15 U.S.C. §1692e(7) and Cal. Civil Code §1788.17)  
4 (H & H and CHRISTENSEN)

5 34. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 33 as  
6 though fully set forth.

7 35. Defendants willfully and knowingly violated 15 U.S.C. §§1692e(7), and therefore  
8 also Civil Code §1788.17, by falsely representing or implying that plaintiff committed any  
9 crime or other conduct in order to disgrace plaintiff, when CHRISTENSEN, acting as H & H's  
10 agent or employee, threatened that he would report to law enforcement that plaintiff had a  
11 marijuana garden if she did not come out and open her locked gate, and also filed a  
12 "Declaration of Reasonable Diligence" in which he stated that there was a "...marijuana garden  
13 clearly visible behind the house."

14 36. Defendants' acts as herein alleged have caused plaintiff to suffer emotional distress,  
15 embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages, statutory  
16 damages, and attorney's fees and costs, as authorized under 15 U.S.C. §1692k and Cal. Civil  
17 Code § 1788.30.

18 WHEREFORE, plaintiff prays judgment against defendants as hereinafter set forth.

19 **SIXTH CLAIM FOR RELIEF**

20 (Violation of 15 U.S.C. §1692e(10) and Cal. Civil Code §1788.17)  
21 (H & H and CHRISTENSEN)

22 37. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 36 as  
23 though fully set forth.

24 38. Defendants willfully and knowingly violated 15 U.S.C. §§1692e(10), and therefore  
25  
26  
27  
28





1 also Civil Code §1788.17, by making a false representation and using deceptive means, when  
2 CHRISTENSEN, acting as H & H's agent or employee, threatened that he would report to law  
3 enforcement that plaintiff had a marijuana garden if she did not come out and open her locked  
4 gate, and also filed a "Declaration of Reasonable Diligence" in which he stated that there was a  
5 "...marijuana garden clearly visible behind the house."  
6

7 39. Defendants' acts as herein alleged have caused plaintiff to suffer emotional distress,  
8 embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages, statutory  
9 damages, and attorney's fees and costs, as authorized under 15 U.S.C. §1692k and Cal. Civil  
10 Code § 1788.30.  
11

12 WHEREFORE, plaintiff prays judgment against defendants as hereinafter set forth.

13 **SEVENTH CLAIM FOR RELIEF**

14 (Violation of 15 U.S.C. §1692f and Cal. Civil Code §1788.17)  
15 (H & H and CHRISTENSEN)

16 40. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 39 as  
17 though fully set forth.

18 41. Defendant willfully and knowingly violated 15 U.S.C. §1692f, and therefore also  
19 Cal. Civil Code §1788.17, by using unfair or unconscionable means in attempting to collect the  
20 a debt, when CHRISTENSEN, acting as H & H's agent or employee, threatened to report to law  
21 enforcement that plaintiff had a marijuana garden if she did not come out and open her locked  
22 gate, and also filed a "Declaration of Reasonable Diligence" in which he stated that there was a  
23 "...marijuana garden clearly visible behind the house."  
24

25 42. Defendants' acts as herein alleged have caused plaintiff to suffer emotional distress,  
26 embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages, statutory  
27 damages, and attorney's fees and costs, as authorized under 15 U.S.C. §1692k and Cal. Civil  
28



1 Code § 1788.30.

2 WHEREFORE, plaintiff prays judgment against defendants as hereinafter set forth.

3 **EIGHTH CLAIM FOR RELIEF**  
4 (Violation of Cal. Civil Code §1788.10(b))  
5 (H & H and CHRISTENSEN)

6 43. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 42 as  
7 though fully set forth.

8 44. Defendants willfully and knowingly violated Cal. Civil Code §1788.10(b) by  
9 threatening that failure to pay a consumer debt will result in an accusation that plaintiff had  
10 committed a crime, where such accusation would be false, when CHRISTENSEN, acting as H  
11 & H's agent or employee, threatened to report to law enforcement that plaintiff had a marijuana  
12 garden if she did not come out and open her locked gate.

13 45. Defendants' acts as herein alleged have caused plaintiff to suffer emotional distress,  
14 embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages, statutory  
15 damages, and attorney's fees and costs, as authorized under Cal. Civil Code § 1788.30.

16  
17 WHEREFORE, plaintiff prays judgment against defendants as hereinafter set forth.

18 **NINTH CLAIM FOR RELIEF**  
19 (Violation of Cal. Civil Code §1788.10(c))  
20 (H & H and CHRISTENSEN)

21 46. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 45 as  
22 though fully set forth.

23 47. Defendants willfully and knowingly violated Cal. Civil Code §1788.10(c) by  
24 communicating, and threatening to communicate, to any person the fact plaintiff had engaged in  
25 conduct which the defendants knew or had reason to believe would defame plaintiff,  
26 when CHRISTENSEN, acting as H & H's agent or employee, threatened to report to law  
27



1 enforcement that plaintiff had a marijuana garden if she did not come out and open her locked  
 2 gate, and also filed a "Declaration of Reasonable Diligence" in which he stated that there was a  
 3 "...marijuana garden clearly visible behind the house."

4  
 5 48. Defendants' acts as herein alleged have caused plaintiff to suffer emotional distress,  
 6 embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages, statutory  
 7 damages, and attorney's fees and costs, as authorized under Cal. Civil Code § 1788.30.

8 WHEREFORE, plaintiff prays judgment against defendants as hereinafter set forth.

9  
 10 **TENTH CLAIM FOR RELIEF**  
 (Violation of Cal. Civil Code §1788.10(e))  
 (H & H and CHRISTENSEN)

11 49. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 48 as  
 12 though fully set forth.

13  
 14 50. Defendants willfully and knowingly violated Cal. Civil Code §1788.10(e) by  
 15 threatening that nonpayment of the alleged debt may result in plaintiff's arrest, when such action  
 16 either was not contemplated by defendants or was not permitted by law, when CHRISTENSEN,  
 17 acting as H & H's agent or employee, threatened to report to law enforcement that plaintiff had  
 18 a marijuana garden if she did not come out and open her locked gate."

19  
 20 51. Defendants' acts as herein alleged have caused plaintiff to suffer emotional distress,  
 21 embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages, statutory  
 22 damages, and attorney's fees and costs, as authorized under Cal. Civil Code § 1788.30.

23 WHEREFORE, plaintiff prays judgment against defendants as hereinafter set forth.

24 **ELEVENTH CLAIM FOR RELIEF**  
 (Defamation)  
 (H & H and CHRISTENSEN)

25  
 26 52. Plaintiffs incorporate herein by reference paragraphs 1 through 51, as though fully  
 27 set forth herein.  
 28



1           53. Defendants defamed plaintiff when they filed in Lake County Superior Court a  
2 public document, "Declaration of Reasonable Diligence," in which they stated that there was a  
3 "...marijuana garden clearly visible behind the house."

4  
5           54. Persons defendants made this statement, including court staff, the parties to this the  
6 Lake County Collection Action, and the general public can reasonably understand that the  
7 statement was about Plaintiff.

8           55. The statement made by defendants injured Plaintiff in her occupation, exposed her  
9 to hatred, contempt, ridicule, or shame, and discouraged others from associating or dealing with  
10 her.

11  
12           56. The statement was false.

13           57. Defendants failed to use reasonable care to determine the truth or falsity of the  
14 statement.

15           58. Plaintiff suffered harm to her property, business, profession, or occupation.

16           59. The statements were a substantial factor in causing plaintiff's harm.

17  
18           60. The statements made by defendants as herein alleged were published willfully, and  
19 with malice, so that defendants are subject to actual damages, statutory damages, and punitive  
20 damages.

21           61. Defendants' acts as herein alleged have caused plaintiff to suffer emotional distress,  
22 embarrassment, humiliation, and anxiety. Plaintiff seeks to recover actual damages, statutory  
23 damages, and attorney's fees and costs, as authorized by law.

24  
25           WHEREFORE, Your Plaintiff demands judgment as follows:

- 26           1. For actual damages resulting from defendants' violations of the FDCPA,  
27 pursuant to 15 U.S.C. §1692k(1);  
28






2. For statutory damages of \$1,000 per violation of the FDCPA, pursuant to 15 U.S.C. §1692k(1);
3. For the costs of the action together with reasonable attorney's fees, pursuant to 15 U.S.C. §1692(a)(3);
4. For actual damages resulting from defendants' violations of the CFDCPA, pursuant to Cal. Civ. Code §1788.30(a);
5. For statutory damages of \$1,000 for each willful and knowing violation of the CFDCPA, pursuant to Cal. Civ. Code §1788.30(b);
6. For the costs of the action together with reasonable attorney's fees, pursuant to Cal. Civ. Code §1788.30(c);
7. For pre-judgment and post-judgment interest at the legal rate; and
8. For such other relief the Court does deem just, equitable and proper.

**TRIAL BY JURY IS DEMANDED.**

Dated: April 15, 2011

DEBRA R. ROBINSON,  
By:   
JAMES J. BERGMANN  
Law Office of James J. Bergmann  
Attorney for Plaintiff

RICHARD M. WIEKING, CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA.

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